

IN YOUNGSTOWN MUNICIPAL COURT
MAHONING COUNTY, OHIO

CHERIE H. HOWARD
840 Winona Drive
Youngstown, Ohio 44511

Plaintiff,

vs.

ASSET ACCEPTANCE CAPITAL
CORP., dba ASSET ACCEPTANCE,
LLC
28405 Van Dyke Avenue
Warren, MI 48090

Defendant.

CASE NO.

09CVF3190

COMPLAINT

Instructions to Clerk

SEAN J. CLARK
CLERK OF COURT

JUL 16 PM 2:33

MAHONING COUNTY
YOUNGSTOWN, OHIO
FILED

I. INTRODUCTION

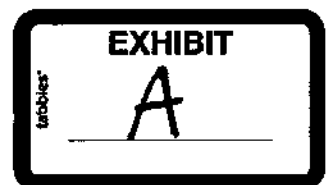
1. This is an action for actual and statutory damages brought by Plaintiff Cherie H. Howard, an individual consumer, against Asset Acceptance Capital Corporation, dba Asset Acceptance LLC for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (hereinafter "FDCPA") and the Consumer Sales Practices Act § 1345 *et seq.* of the Ohio Revised Code (hereinafter "CSPA") which prohibit abusive, deceptive, and unfair practices consumer debt collection practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k (d). Venue is proper in that Defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

3. Plaintiff Cherie H. Howard is a natural person residing in the City of Youngstown, Mahoning County, Ohio.



4. Defendant Asset Acceptance Capital Corporation, dba Asset Acceptance LLC ("Defendant"), is a foreign corporation engaged in the business of collecting debt in this state with its principal place of business located at 28405 Van Dyke Avenue, Warren Michigan 48093.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another.

6. Defendant buys consumer debts in default and regularly attempts to collect on consumer debts that it has purchased after default.

7. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a (6), is a "supplier" as defined by O.R.C. § 1345.01 (C), and is a "collection agency" as defined by O.R.C. § 1319.12 (A) (1).

IV. FACTUAL ALLEGATIONS

8. On or about December 23, 2008, Defendant's agent, while employed as a collector by Defendant, telephoned Plaintiff and left a voice mail message demanding to speak to "Carlos A. Howard" regarding payment of a debt allegedly owed to Defendant's principal or assignor.

9. On information and belief, Defendant's agent was attempting to collect a debt that was incurred for personal, family or household purposes.

10. On or about December 23, 2008, Plaintiff telephoned Defendant at the number left on Plaintiff's voicemail, and talked to one of Defendant's female agents. Plaintiff informed Defendant that no one by the name of Carlos Howard lived at her residence.

11. On or about December 23, 2008, Plaintiff informed Defendant's agent that Carlos Howard was unknown to Plaintiff and that Defendant should refrain from contacting Plaintiff in the future.

12. Thereafter, Defendant's agent named Greg Williams ignored Plaintiff's request and has made repeated calls to Plaintiff's residence, leaving pre-recorded messages demanding that "Carlos A. Howard" return Defendant's calls.

13. As a result of the acts alleged above, Plaintiff has suffered frustration, inconvenience, aggravation, annoyance, and other emotional distress.

V. FIRST CAUSE OF ACTION

14. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

15. Defendant has violated the FDCPA. Defendant's violations include, but are not limited to, the following:

(a) Defendant caused Plaintiff's telephone to ring or engaged Plaintiff in telephone conversations repeatedly or continuously about the alleged debt with the intent to annoy, abuse or harass her at the called telephone number in violation of 15 U.S.C. §§ 1692d (5) and 1692e.

16. As a result of the above violations of the FDCPA, Defendant is liable to the Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA and Plaintiff's actual damages, statutory damages, costs and attorney's fees.

VI. SECOND CAUSE OF ACTION

17. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

18. In connection with its debt collection, Defendant committed unfair, deceptive, and unconscionable acts and practices in violation of Sections 1345.02 and 1345.03 of the Consumer Sales Practices Act ("CSPA"). Said acts and practices include but are not limited to:

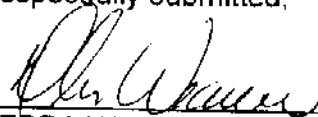
(1) causing Plaintiff's telephone to ring or engaging Plaintiff in telephone conversation repeatedly or continuously about the alleged debt with the intent to annoy, abuse or harass her at the called telephone number; and

19. Defendant knowingly committed acts and practices that violated the CSPA.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for the following:

- A. Declaratory judgment that Defendant's practices herein complained of are unfair, deceptive, and unconscionable consumer practices and violated the FDCPA and CSPA ;
- B. An injunction barring Defendant from continuing these acts and practices;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k (a) (2) (A) in the sum of \$1,000.00;
- D. Statutory damages in the sum of \$200.00 for each violation pursuant to O.R.C. § 1345.09(B);
- E. Actual and non-economic damages not to exceed the \$15,000.00 jurisdictional limit of the Court;
- F. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k (a) (3) and O.R.C. § 1345.09(F) (2); and
- G. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,



DEBRA WEAVER (0080235)
1330 Wick Avenue
Youngstown, Ohio 44505
Telephone No.: (330) 744-1748
E-Mail: debraweaver2000@hotmail.com

Attorney for Plaintiff

INSTRUCTIONS TO THE CLERK

Please issue a summons and complaint for service upon the Defendant listed in the caption pursuant to Ohio Civil Rule 4.2(6) by certified mail.



DEBRA WEAVER (0080235)
Attorney for Plaintiff

SARA-J BROWN-CLARK, CLERK
YOUNGSTOWN MUNICIPAL COURT
PO BOX 6047
YOUNGSTOWN OH 44501-6047
THIS ENVELOPE CONTAINS A LEGAL NOTICE
PLEASE FORWARD

CERTIFIED MAIL



7112 4369 4680 1374 8240

50571



NOV 20 2007

ASSISTANT CLERK
YOUNGSTOWN MUNICIPAL COURT
PO BOX 6047
YOUNGSTOWN OH 44501-6047

NOV 20 2007
1st POSTAGE BY
2nd POSTAGE
RETURN DATE

Enclosure

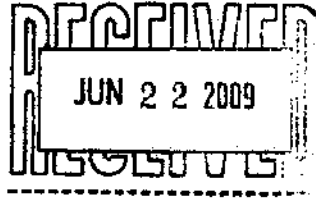
480537132 0029

11/20/07 11:00 AM

SUMMONS

19580266
31705875

CASE NO. 09CVF02190Y



IN THE YOUNGSTOWN MUNICIPAL COURT
YOUNGSTOWN, OHIO

CHERIE H HOWARD
840 WINONA DRIVE
YOUNGSTOWN, OH 44511

PLAINTIFFS

VS 1000.00

ASSET ACCEPTANCE CAPITAL CORP
28405 van dyke ave
WARREN, MI 48090

DEFENDANTS

YOU HAVE BEEN NAMED DEFENDANT (S) IN A COMPLAINT FILED IN THE MUNICIPAL COURT, CITY HALL BUILDING, YOUNGSTOWN, OHIO 44503 BY:

CHERIE H HOWARD, 840 WINONA DRIVE YOUNGSTOWN, OH 44511

A COPY OF THE COMPLAINT IS ATTACHED HERETO. THE FOLLOWING IS THE NAME AND ADDRESS OF THE PLAINTIFF'S ATTORNEY, IF ANY, OTHERWISE SEE NAME AND ADDRESS OF THE PLAINTIFF'S ABOVE:

DEBRA WEAVER, 1330 WICK AVE YOUNGSTOWN, OH 44505

You are hereby SUMMONED and REQUIRED to serve upon the Plaintiff's Attorney, or the Plaintiff if he has no attorney of record, a copy of an ANSWER to the COMPLAINT within twenty-eight days after service of this summons on you, exclusive of the day of service. Your ANSWER must be filed with the Court within three days after the service of a copy of your ANSWER on the Plaintiff's Attorney or the Plaintiff.

IF YOU FAIL TO APPEAR AND DEFEND, JUDGMENT BY DEFAULT WILL BE RENDERED AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

SARAH BROWN-CLARK, CLERK OF THE
MUNICIPAL COURT OF YOUNGSTOWN

DATE: 6/17/09

DEPUTY CLERK

<p>COMPLETE THIS SECTION TO DELIVER</p> <p>A. Service <input checked="" type="checkbox"/> Signature <input type="checkbox"/> Registered by (Printed Name) <input type="checkbox"/> Addressee</p> <p>B. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>C. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>D. IF YES, enter delivery address below</p>		<p>7112 4369 4680 1206 824</p> <p>1. Article Addressed to:</p> <p>09CVF02190Y</p> <p>ASSET ACCEPTANCE CAPITAL CO</p> <p>28405 van dyke ave</p> <p>WARREN, MI 48090</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7112 4369 4680 1274 8240</p>		<p>3. Service Type</p> <p>IN Certified Mail</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p> <p>102285-02-M 1540</p>	